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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554

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Federal Communications Commission  
Office of Secretary

In re Application of )  
INFINITY BROADCASTING EAST INC. ) File No. BRH-20060201BAP  
WFNY-FM, New York, NY ) Facility ID # 58579  
For Renewal of License )

TO: The Secretary  
ATTN: Chief, Media Bureau

POSTED

**INFORMAL OBJECTION**

Right to Decency, Inc. and American Decency Association ("Petitioners"), by their attorney, and pursuant Section 73.3587 of the Commission's Rules, 47 CFR §73.3584, hereby respectfully submit their Informal Objection against the above-captioned application for renewal of license of station WFNY-FM (formerly WXRK(FM)). In so doing, the following is shown:

1. Petitioners incorporate by reference the pleadings filed by them against the pending license renewal of WKRK-FM, Detroit, Michigan, like WFNY-FM a station operated by the Viacom/CBS/Infinity broadcast juggernaut. Until December, 2005, WFNY-FM, operating under the "WXRK" call sign, broadcast "The Howard Stern Show", which featured the eponymous serial pornographer. There is no way that a "public trustee" who broadcast "The Howard Stern Show" daily

for well over seven years of an eight year license term can be found to meet the statutory standard of "public interest, convenience and necessity".

2. Furthermore, it appears that Viacom/CBS/Infinity grossly violated the Commission's *ex parte* rules by negotiating a settlement with the FCC as to their serial violations of 18 U.S.C. §1464 and 73.3999, given the fact that some 70 days elapsed between Petitioners' filing of their formal "Petition to Deny" against the WKRK-FM renewal on September 1, 2004 and the adoption date on FCC 04-268 of November 9, 2004, it appears certain that Viacom and/or its representatives discussed the merits of matters raised in Petitioners' "Petition to Deny"—Viacom's serial violations of 18 U.S.C. §1464, including but not limited to its perpetration and broadcast of a sacrilegious desecration of St. Patrick's Cathedral in New York City—during that time period. The moment our "Petition to Deny" was stamped in as received by the Secretary's office, the WKRK-FM renewal matter became a "restricted" proceeding under the FCC's *ex parte* rules. This meant that, on and after September 2, 2004, the Petitioners (and the undersigned) had to be served with all communications relative to the merits, and had to be included in all oral presentations, including negotiations.

3. Moreover, Viacom/CBS/Infinity has made a fool out of the FCC relative to the "Sex With Sam" debacle. In order to get a "slap on the wrist" fine, Viacom/CBS/Infinity fired the hosts of the "Opie and Anthony Show" from WNEW(FM). However, after the departure of pornographer Stern to join former Viacom/CBS/Infinity executive Mel Karmazin at Sirius Satellite Radio, and the flop of Stern's morning drive time program successor David Lee Roth, Viacom/CBS/Infinity hired none other than "Opie and Anthony" to host morning drive on WFNY-FM. This is absolutely stunning. Viacom/CBS/Infinity cannot be trusted as a "public trustee". The renewal application for WFNY-FM (formerly WXRK) must be denied.

4. As we pointed out in the WKRK-FM case, this case is all about the right of private citizens to petition the government for a redress of grievances—that is, the FCC's acceptance of Viacom/CBS/Infinity's long running violations of a federal felony criminal statute, and the FCC's abject failure to conduct a fair, open and public proceeding to determine whether Viacom/CBS/Infinity should be given yet another eight year term to broadcast over the public airwaves. Viacom/CBS/Infinity lacks the basic character qualifications to continue on as a public trustee. Furthermore, Viacom/CBS/Infinity places the individual Commissioners in the position of voting on their support for anti-Catholic and anti-Christian bigotry. Clearly, a vote

in favor of Viacom/CBS/Infinity's basic character qualifications is a vote in favor of anti-Catholic and anti-Christian bigotry. Petitioners can only hope that the Commissioners will vote on the side of right, and will vote to deny the above-captioned application.

**WHEREFORE**, it is urged that the application of Infinity Broadcasting East Inc. for renewal of license of WFNY-FM, New York, New York **BE DENIED**.

Respectfully submitted,

**RIGHT TO DECENCY, INC.**  
**AMERICAN DECENCY ASSOCIATION**

By



Dennis J. Kelly  
Their Attorney

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May 24, 2006



# **New York Radio Guide**

**Where New Yorkers Turn On and Tune In! <sup>SM</sup>**

*...from the Broadcast Capital of the World*

Wednesday, May 24, 2006

## **PROGRAM INFORMATION FOR WFNY-FM**

### **Monday - Friday 6 AM - 10 AM**

Opie & Anthony

### **Monday - Friday 10 AM - 1 PM**

JV & Elvis

### **Monday - Friday 1 PM - 2 PM**

Jim Cramer's Real Money

Jim Cramer website

### **Monday - Friday 2 PM - 3 PM**

Penn Jillette

### **Monday - Friday 3 PM - 7 PM**

Leslie Gold

### **Monday - Friday 7 PM - 11 PM**

Chris Booker

### **Monday - Thursday 11 PM - 3 AM**

*Monday - Thursday:* Jake Fogelnest and Jackie Clarke

*Friday:* Julie Slater

### **Tuesday - Saturday 3 AM - 4 AM**

*Tuesday - Friday:* Penn Jillette

*Friday:* music

### **Tuesday - Saturday 4 AM - 6 AM**

*Tuesday - Friday:* JV & Elvis

*Friday:* music

### **Saturday 6 AM - 10 AM**

Nick Carter

### **Saturday 10 AM - 2 PM**

Dan Neer

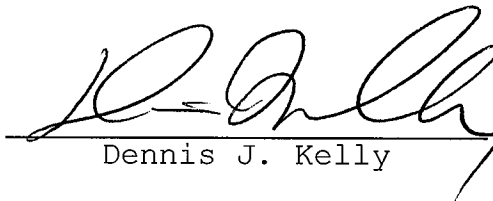
### **Saturday 2 PM - 6 PM**

Julie Slater

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing "Informal Objection" was served by first-class United States mail, postage prepaid, on this 24<sup>th</sup> day of May, 2006 upon the following:

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Dennis J. Kelly